

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-220367.4 **DATE:** April 28, 1986
MATTER OF: Shannon Services, Inc.

DIGEST:

1. Each procurement is a separate transaction and the action taken on any one procurement does not govern the conduct of all similar procurements. Prior determination of technical unacceptability does not require continued similar determination under subsequent solicitation for the same services.
2. The Small Business Administration has conclusive statutory authority to determine matters of small business size status for federal procurements, and therefore the General Accounting Office will not consider an allegation that the low bidder is not a small business concern.
3. Where the solicitation in a negotiated procurement advises that technical factors are more important than cost, the government may conclude that it is more advantageous to award a contract to an offeror with a superior technical proposal even though its proposed costs were not low.

Shannon Services, Inc., protests the anticipated award of a contract to Rice Services under request for proposals No. DABT35-85-R-0147, issued by the Army for dining facility operation services at Fort Dix, New Jersey.

We dismiss the protest.

Shannon first asserts that in a prior procurement for these services in 1984, Rice Services was considered technically unacceptable and eliminated from further consideration. This assertion provides no basis for protest. Even if the assertion is true, what happened

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under a prior solicitation has no relevance to the present procurement. Each procurement action is a separate transaction, and the acceptability or unacceptability of an offeror's proposal under one procurement has nothing to do with subsequent procurements. See Gross Metal Products, B-215461, Nov. 27, 1984, 84-2 CPD ¶ 577.

Shannon also asserts that Rice Services may not be a small business and therefore may be ineligible for any contract award under this small business set-aside. Under the Small Business Act, 15 U.S.C. § 637(b)(6) (1982), the Small Business Administration has conclusive authority to determine matters of small business size status for federal procurements. Bay Cities Refuse Servs., Inc., B-220164, Sept. 6, 1985, 85-2 CPD ¶ 277. Consequently, we do not review such matters. 4 C.F.R. § 21.3(f)(2) (1985).

Finally, the protester complains that any final award determination should be based on a cost comparison which would entitle it to award because it proposed lower costs than Rice Services. The solicitation, however, did not indicate that award would be made on the basis of the least costly, technically acceptable proposal; rather, it clearly provided that technical factors were significantly more important than cost. Where a solicitation for a negotiated procurement advises offerors that technical factors are more important than cost, the procuring agency may determine that it is more advantageous to the government to award the contract to an offeror with a superior technical proposal, even though its cost is higher than that associated with other technically acceptable proposals, if the advantage of the technically superior proposal offset the cost advantages of other proposals. See Systems Research Laboratories, Inc., B-219780, Aug. 16, 1985, 85-2 CPD ¶ 187. Shannon does not allege any reason for finding that the Army unreasonably has made such a determination.

Shannon therefore has not presented any valid basis for protest. Accordingly, pursuant to 4 C.F.R. § 21.3(f), the protest is dismissed.



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